

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

.....
MATTHEW JOHN MATAGRANO,
Plaintiff,

-V.-

9:05-CV-1459
(DNH/RFT)

REGINA MILES; et al.,
Defendants.

.....
APPEARANCES: OF COUNSEL:

FOR THE PLAINTIFF:

MATTHEW JOHN MATAGRANO
#04-A-5883
Plaintiff, *pro se*
Wende Correctional Facility
PO Box 1187
Alden, NY 14004

FOR THE REPRESENTED DEFENDANTS:

HON. ANDREW M. CUOMO
Office of the Attorney General
State of New York
615 Erie Boulevard West, Suite 102
Syracuse, NY 13204-2455

SENTA B. SIUDA, ESQ.
Assistant Attorney General

RANDOLPH F. TREECE, MAGISTRATE JUDGE

PRETRIAL SCHEDULING ORDER

In order to expedite the disposition of this action and to discourage wasteful pretrial activities, the Court directs that the attorneys or parties, if appearing *pro se*, comply with the following procedures.

I. **NON-DISPOSITIVE MOTION FILING DEADLINE**

The deadline for the filing of non-dispositive motions (excluding motions to

compel, discussed below) is **July 31, 2007**. **"Non-dispositive" motions include, but are not limited to, requests to: (i) join any person as a party to this action and (ii) amend a party's pleading.**

II. **DISCOVERY**

All discovery is to be completed by **November 30, 2007**. The parties are to respond **promptly** to discovery requests and otherwise comply with Rules 26 through 37 of the Federal Rules of Civil Procedure. If a party fails to fully respond to discovery, the requesting party must make good faith efforts to resolve the differences either by telephone conference or by mail. The defaulting or objecting party has the same obligation to make good faith efforts to resolve discovery disputes and shall promptly answer requests so as not to delay discovery. See Local Rule 7.1(d).

If plaintiff intends to claim damages for **physical or mental injuries** at trial, plaintiff must notify defendant(s) in writing of the name and address of any doctor or mental health care provider plaintiff intends to call at trial and state in writing what that witness will say about plaintiff's physical or mental condition. **Failure to follow this rule will result in the loss of any right plaintiff may have to call such witness(es) at trial which may result in loss of plaintiff's ability to prove damages.**

III. **MOTIONS TO COMPEL**

If discovery disputes cannot be resolved by the efforts of the parties, a motion may be brought pursuant to Fed. R. Civ. Proc. 37(a) and filed by **December 31, 2007**.

No motion to compel discovery shall be filed unless (a) the party has made good faith efforts to resolve the issues in dispute as directed in L.R. 7.1(d) and (b)

the related discovery materials accompany the motion to compel. ANY MOTIONS NOT ACCOMPANIED BY DOCUMENTATION SHOWING THAT PARTY'S EFFORTS TO RESOLVE ANY DISCOVERY DISPUTES PRIOR TO FILING A MOTION TO COMPEL WILL BE DENIED FOR FAILURE TO COMPLY WITH THIS LOCAL RULE.

IV. DISPOSITIVE MOTIONS

All dispositive motions, such as motions seeking summary judgment, shall be filed no later than **March 31, 2008**.

V. PROCEDURE FOR FILING ANY MOTION

All motions shall be served at least 31 days prior to the return date. Answering affidavits and opposition memoranda shall be filed and served no later than 17 days prior to the return date. All motions will be heard on submission without oral argument unless otherwise ordered by the Court. **MOTIONS THAT ARE NOT TIMELY FILED IN ACCORDANCE WITH THESE DEADLINES WILL BE DENIED AS UNTIMELY.**

VI. EXTENSIONS

The above deadlines will not be extended by the Court except upon application to the Court with a showing of good cause.

VII. CONSENT

If a party chooses to have all further proceedings in this matter conducted by a U.S. Magistrate Judge, the party or the party's attorney should sign the attached consent form and mail it to the Clerk. If all parties consent and the assigned District Judge concurs, all further proceedings including the trial will be conducted by a Magistrate Judge. 28 U.S.C. § 636(c). If all parties do not consent, the Magistrate

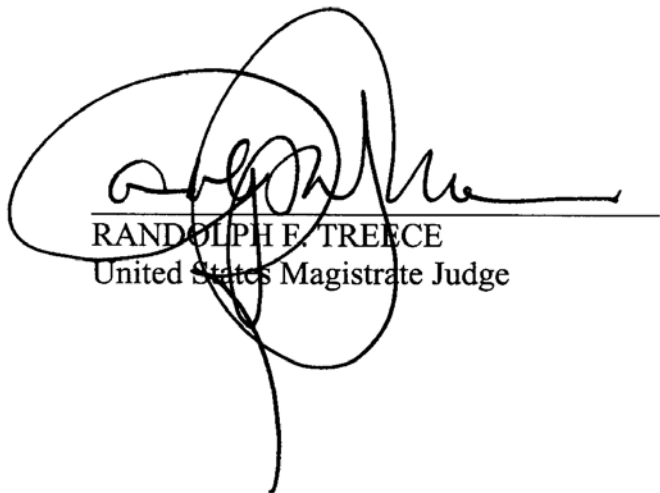
Judge will consider all pretrial matters and then return the case to the District Judge's trial calendar.

WHEREFORE, it is hereby

ORDERED, that the parties comply with this pretrial Order, and further

ORDERED, that the Clerk serve a copy of this Order on the parties.

Dated: May 24, 2007
Albany, New York



RANDOLPH F. TREECE
United States Magistrate Judge

NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE TO EXERCISE OF JURISDICTION

In accordance with the provisions of 28 U.S.C. Section 636(c), you are hereby notified that a United States Magistrate Judge of this district court is available to exercise the court's jurisdiction and to conduct any or all proceedings in this case including a jury or non-jury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

Your opportunity to have your case disposed of by a magistrate judge is subject to the calendar requirements of the court. Accordingly, the district judge to whom your case is assigned must approve the reference of the case to a magistrate judge for disposition.

In accordance with 28 U.S.C. § 636(c), an appeal from a judgment entered by a magistrate judge will be taken to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a District Court.

Copies of the consent form are available from the Clerk of the Court.

****ATTACHED FOR YOUR CONSIDERATION IS A BLANK CONSENT FORM****

MATTHEW JOHN MATAGRANO,

Plaintiff,

v.

REGINA MILES; et al.,

Defendants.

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**CONSENT TO JURISDICTION BY
A UNITED STATES MAGISTRATE
JUDGE AND ORDER OF REFERENCE**

9:05-CV-1459(DNH/RFT)

CONSENT TO EXERCISE OF JURISDICTION
BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. Section 636(c), and Fed.R.Civ.P. 73, the undersigned party or parties to the above captioned civil matter hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Any appeal to the final judgment will be taken directly to the Court of Appeals for the Second Circuit.

Signatures

Party(ies) Represented

Date

(ATTACH ADDITIONAL SIGNATURE PAGE IF NECESSARY)

ORDER OF REFERENCE

IT IS HEREBY ORDERED that the above captioned matter be referred to the Honorable RANDOLPH F. TREECE, United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S.C. Section 636(c), and the consent of the parties.

Date

United States District Judge

Note - RETURN THIS FORM TO THE CLERK